

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BAY EQUITY LLC,

Plaintiff,

v.

TOTAL MORTGAGE SERVICES,
LLC, STEVEN SIRMAIAN, and
DENISE PEACH,

Defendants.

Civil Action No.: 1:20-cv-10693-IT

**PLAINTIFF'S MOTION FOR LEAVE
TO FILE REPLY IN SUPPORT OF ITS MOTION FOR
LEAVE TO TAKE LIMITED JURISDICTIONAL DISCOVERY**

Pursuant to L.R. 7.1(b)(3), Plaintiff Bay Equity LLC (“Bay Equity”) respectfully requests leave to file a short reply brief (the “Reply”) in further support of its Motion for Leave to Take Limited Jurisdictional Discovery (the “Motion,” Dkt. No. 29).

Good cause exists for the filing of a short reply brief because the Reply would provide further support for Bay Equity’s Motion, rebut certain factual and legal assertions set forth in Defendants’ Opposition to the Motion (Dkt. No. 31) (the “Opposition”), and generally assist the Court in making a determination on the Motion. *See, e.g., United States v. Swiss Am. Bank, Ltd.*, 191 F.3d 30, 45 (1st Cir. 1999) (“A timely and properly supported request for jurisdictional discovery merits solicitous attention.”).

In particular:

1. The Reply will address Defendants’ contentions that, *inter alia*, the Motion is untimely (Opposition, pp. 1-3) by providing analysis and case law showing what *actually* constitutes an untimely request for jurisdictional discovery in this context.

2. The Reply will address Defendants' effort to disingenuously minimize the import of two affidavits filed in support of the Motion (Opposition, pp. 3-5).

3. Bay Equity expects that a Reply would be helpful to this Court by providing analysis of the applicable case law in light of Defendants' misplaced efforts to distinguish the authorities cited in support of the Motion (including, e.g., Defendants' arguments concerning the case law based on their repeated, incorrect assertions that Bay Equity has not provided any evidence in support of its claims against Ms. Peach) (Opposition, pp. 2-4).

4. In response to Defendant's claim that the requested discovery would be onerous (Opposition, p. 5), the Reply would explain Bay Equity's efforts to work with Defendants to fashion a reasonable plan for conducting limited jurisdictional discovery in *advance* of filing its Motion, and offer alternatives to the timing and scope of the requested discovery to ensure that there is no prejudice whatsoever to any party in conducting such limited discovery.

5. Defendants will not be prejudiced by an order granting Plaintiff leave to file a reply in further support of its Motion, and the interests of justice will be served by giving Bay Equity an opportunity to respond to Defendants' arguments raised in their Opposition.

6. Plaintiff's Motion for Leave to File Reply in Support of its Motion for Leave to Take Limited Jurisdictional Discovery has not been filed to cause delay or for an improper purpose. In this regard, a hearing on the Motion has not yet been scheduled.

WHEREFORE, for the foregoing reasons, and for good cause shown, Plaintiff Bay Equity LLC respectfully requests that it be granted leave to file a reply, not to exceed five pages, within four business days after the Court rules on this Motion.

Respectfully submitted,

BAY EQUITY LLC,

By its attorneys,

/s/ Stephen D. Riden

Russell Beck, BBO No. 561031
Stephen D. Riden, BBO No. 644451
Hannah T. Joseph, BBO No. 688132
Beck Reed Riden LLP
155 Federal Street, Suite 1302
Boston, Massachusetts 02110
(617) 500-8660 Telephone
(617) 500-8665 Facsimile
rbeck@beckreed.com
sriden@beckreed.com
hjoseph@beckreed.com

Dated: June 4, 2020

CERTIFICATE OF SERVICE

I hereby certify that this document has been filed through the CM/ECF system on June 4, 2020, and will be served electronically to the registered participants as identified on the Notice of Electronic Filing through the Court's transmission facilities, and that non-registered participants have been served this day by mail.

/s/ Stephen D. Riden

L.R. 7.1(a)(2) CERTIFICATE

I certify pursuant to L.R. 7.1(a)(2) that on June 4, 2020, at 10 a.m. ET, counsel for the parties conferred during a telephone conference and attempted in good faith to resolve or narrow the issues presented by this Motion. Defendants' counsel has indicated that Defendants oppose this Motion.

/s/ Stephen D. Riden

Stephen D. Riden